

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

BRIAN ZACCARDELLI,

Petitioner,

v.

**Case No. 1:07cv119
(Judge Keeley)**

WAYNE PHILLIPS, Warden,

Respondent.

**ORDER GRANTING MOTION FOR RECONSIDERATION
AND VACATING REPORT AND RECOMMENDATION**

On September 18, 2007, the undersigned issued a Report and Recommendation in which I recommended that this case be dismissed as prematurely filed. At issue, is the Bureau of Prisons' alleged policy of categorically limiting a prisoner's placement in a Community Corrections Center ("CCC") or halfway house for the last 10% of his or her sentence. Historically, the Bureau of Prisons does not review an inmate for CCC placement until he is within eleven to thirteen months of his projected release date. Because the petitioner's projected release date is January 28, 2009, more than sixteen months after he filed his petition, the undersigned assumed that he had not yet officially been screened for CCC placement. However, in his motion for reconsideration, the petitioner indicates that he has been considered for CCC placement and been given a placement date of November 19, 2008.

Therefore, the matter is ripe for review and for a determination whether the petitioner has been screened utilizing the five (5) factors set forth in 18 U.S.C. § 3621(b). Accordingly, the petitioner's motion for reconsideration (Doc. 7) is **GRANTED** and the Report and Recommendation

(Doc. 5) is **VACATED**.

IT IS SO ORDERED.

The Clerk is directed to mail a copy of this Order to the *pro se* petitioner.

DATED: October 1, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE